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7 UNITED STATES OF AMERICA,
8 Plaintiff,
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10 v.
11 Defendant.

Case No. 20-cr-00204-WHO-2

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13 **ORDER FOR IMMEDIATE RELEASE**
14 **OF DEFENDANT BOVIS**

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28 Defendant Nick Bovis has requested that his sentence be modified because the Bureau of
Prisons has put his life in danger by its inadequate medical treatment. Emergency Motion for
Modification of Sentence (“Emergency Motion”), Dkt. No. 95. The government does not contest
the facts as described in the Emergency Motion, which are included below. The BOP’s medical
treatment of Bovis is incomprehensible and very far below the standards that I expect for anyone
held in custody. I am not happy to grant this request: Bovis’s underlying criminal conduct was
motivated by avarice and arrogance and his public corruption injured the public in a significant
way. His custodial sentence was already light as a result of his cooperation against other
defendants. And as the government itself acknowledged, the remedy for his medical condition
appears to be relatively straightforward—get Bovis the medication he needs at the dosage he needs
(and was prescribed by his treating physician) to properly treat his medical condition. But the
BOP’s apparent indifference to Bovis’s life threatening medical issues necessitates this ORDER
that he be RELEASED IMMEDIATELY.

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38 Bovis entered a guilty plea to a violations of Honest Services and Insurance Wire Fraud,
39 18 U.S.C. § 1343, and I sentenced him to nine months in prison pursuant to the cooperation
40 agreement with the government. He surrendered to the custody of the Bureau of Prisons on

1 October 10, 2024, and is serving his sentence at FCI Florence in Florence, Colorado. He has not
2 been disciplined while in custody. He is sixty-one (61) years old and has a long-standing problem
3 with high blood pressure. *See* Emergency Motion, Exh A and Presentence Investigation Report
4 dated January 4, 2024, Dkt. No. 80, p.12.

5 When Bovis surrendered to the Bureau of Prisons in October, he provided his medical
6 prescriptions to BOP staff at that time, including a prescription for 50 mg Hydrochlorothiazide.¹
7 *Id.*, Exh. B. Hydrochlorothiazide is relatively inexpensive and available. But the BOP filled none
8 of his prescriptions as written or in alternate form. Instead, Bovis's blood pressure medication
9 was arbitrarily reduced to ¼ of the prescribed dosage. *Id.*, Exh. A.

10 In December, Bovis went to the medical clinic at the FCI facility; his vitals revealed
11 "extremely high" blood pressure. *Id.* Instead of returning his medication to the levels prescribed
12 by his treating physician, the prison medical clinic prescribed Lisinopril 10 mg, a drug that works
13 differently from Hydrochlorothiazide: Lisinopril works by constricting blood vessels while
14 Hydrochlorothiazide is in a class of medications called diuretics.

15 After taking Lisinopril, Bovis began suffering from cough, dizziness, and blurred vision,
16 making sleep and work difficult. *Id.* Persistent cough is a known side effect of Lisinopril. On or
17 about January 28, 2025, Bovis became disoriented and went to the prison medical center but was
18 initially denied treatment. His symptoms worsened to the point where he was unable to speak. A
19 correctional officer recognized what he thought were stroke symptoms, and Bovis was taken to the
20 local hospital in Florence where he was told that he had suffered from a Transient Ischemic Attack
21 ("TIA").

22 Bovis was held overnight for observation and to stabilize his blood pressure. He was
23 released from the hospital back to the BOP on January 29, 2025. The hospital physician ordered
24 that the Lisinopril be discontinued, and that the Hydrochlorothiazide be increased to 25 mg. *Id.*
25 Another medication that was added was not on the BOP formulary, so he was not given it by the
26 prison medical staff. *Id.*, A.

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28 ¹ The remaining discussion of Bovis's medical issues is drawn largely from the Emergency Motion, with which the government did not take issue.

1 On or about February 15, 2025, Bovis again suffered symptoms of blurred vision,
2 disorientation, and slurred speech. He passed out. He was taken to the hospital and was
3 diagnosed as having a seizure. *Id.*, Exh. D. His February 15, 2025 medical records confirm that
4 he is to continue with his medicines, including Hydrochlorothiazide 25 mg. *Id.*, Exh. D. The
5 hospital added an anti-seizure medication to his list of medications. Bovis was also referred for
6 further neurological testing.

7 Since being released from the hospital, Bovis has continued to suffer from disorientation,
8 slurred speech and blurred vision. *Id.*, Exh A. A nurse at FCI Florence recommended that he see
9 a neurologist. The nearest hospital did not have one on staff. Rudimentary testing suggested that
10 he had another TIA rather than a seizure, but he has still not received a proper follow-up. *Id.*

11 Despite his medical issues, Bovis has been working regularly as a kitchen assistant for the
12 high security portion of the Florence Prison and never missed a day other than for these medical
13 episodes. He received no write ups. Bovis sought compassionate release from the BOP, which
14 was denied, exhausting his administrative remedies.

15 In sum, Bovis is a sentenced defendant who is now suffering from extreme high blood
16 pressure and has been refused his prescribed medication. He has subsequently suffered two TIA
17 episodes, on January 28, 2025, and on February 15, 2025, presumably as a result of BOP's
18 inexplicable refusal to follow his doctor's orders. The refusal of the BOP to follow a simple
19 prescription has resulted in two serious medical incidents in the relatively brief time he has been in
20 custody. If these issues continue, they are likely to result in brain damage or even death. As the
21 government has indicated, Bovis's issues appear to have straightforward remedy: get the
22 medication he needs at the dosage he needs. Government Opposition, pp. 4-5, Dkt. No. 97. Yet
23 despite being aware of this motion and, more to the point, Bovis's condition and the deleterious
24 impacts of the BOP's failure to address the issues, BOP has done precious little to remedy the
25 situation.

26 A nine-month term should not become a life-threatening sentence. Continued detention
27 raises constitutional concerns. The Eighth Amendment bars "cruel and unusual punishments," to
28 include deliberate indifference to unsafe, lifethreatening conditions. *See generally, Parsons v.*

1 *Ryan*, 754 F.3d 657 (9th Cir. 2014). “That the Eighth Amendment protects against future harm to
2 inmates is not a novel proposition.” *Helling v. McKinney*, 509 U.S. 25, 33 (1993). “[A] remedy
3 for unsafe conditions need not await a tragic event.” *Id.* At bottom, the Eighth Amendment
4 forbids placing a frail individual at risk of death in the absence of any danger to the community or
5 serious risk of flight.

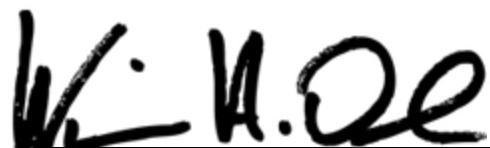
6 District courts generally “may not modify a term of imprisonment once it has been
7 imposed.” 18 U.S.C. § 3582(c); *Dillon v. United States*, 560 U.S. 817, 819, 826 (2010). One
8 narrow exception to this general rule falls under 18 U.S.C. § 3582(c)(1)(A), also known as
9 “compassionate release,” which permits district courts to reduce a final sentence if the defendant
10 presents “extraordinary and compelling reasons.” *United States v. Aruda*, 993 F.3d 797, 799 (9th
11 Cir. 2021); see also *United States v. Wright*, 46 F.4th 938, 944-45 (9th Cir. 2022) (“As
12 compassionate release derogates from the principle of finality, it is a ‘narrow’ remedy, and the
13 court’s disposition of a compassionate release motion is ‘discretionary, not mandatory[.]’”).

14 In this case, Bovis has exhausted the procedural requirement to bring this motion—the
15 BOP rejected his request for compassionate relief. Substantively, he has met the three criteria
16 required under 18 U.S.C. § 3582(c)(1)(A). “First, the district court must determine whether
17 ‘extraordinary and compelling reasons warrant’ a sentence reduction.” *Wright*, 46 F.4th at 945
18 (quoting 18 U.S.C. § 3582(c)(1)(A)(i)). For the reasons described above, I find that there are
19 extraordinary and compelling reasons. “Second, the court must evaluate whether a reduction
20 would be ‘consistent with applicable policy statements issued by the Sentencing Commission.’”
21 *Id.* (emphasis in original). I find that it is in light of seriousness of his condition, the shortness of
22 time before his release, and the inexplicable refusal of the BOP to treat him properly. “Third, the
23 court must consider and weigh the factors set forth in 18 U.S.C. § 3553(a) to decide whether the
24 requested sentence reduction is warranted ‘under the particular circumstances of the case.’” *Id.*
25 Again, for the reasons stated above, including his lack of danger to the public (he has not been
26 disciplined while in custody and poses no risk of recidivism) and the outsized threat to his health
27 in comparison with the narrowness of the remedy sought, the Section 3553(a) factors counsel in
28 favor of compassionate release.

1 Therefore, I GRANT Bovis's request for modification of sentence. He will be released
2 from the BOP immediately to live at his home with his wife. He shall be restricted to his home
3 through May 24, 2025, except for religious services, medical appointments, or court-related
4 activities approved by his probation officer. His one-year term of supervised release shall
5 commence on May 25, 2025.

6 **IT IS SO ORDERED.**

7 Dated: March 6, 2025



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10 William H. Orrick
11 United States District Judge